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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/309,361	05/11/1999	LEE J. BURROWS	NUFO-002	7398

7590

04/04/2002

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EXAMINER

VINH, LAN

ART UNIT

PAPER NUMBER

1765

DATE MAILED: 04/04/2002

20

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/309,361

Applicant(s)

BURROWS, LEE J.

Examiner

LAN VINH

Art Unit

1765

--Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 January 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-13, 22, 27-48.

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

***Response to Arguments***

1. Applicant's arguments filed 1/15/2002 have been fully considered but they are not persuasive.

In traversing the examiner rejection, the applicants argue that Kitamura fails to teach the limitation that the anneal takes place in a "sealed pure oxygen atmosphere substantially lacking of H<sub>2</sub>O" because Kitamura discloses a flowing gas atmosphere. The examiner disagrees because as clearly recited in col 11, lines 13-17 of Kitamura, Kitamura discloses heat treating in a sealed furnace having a 100% oxygen atmosphere ( pure oxygen atmosphere substantially lacking of H<sub>2</sub>O). Although Kitamura does disclosing flowing oxygen gas into the furnace, Kitamura also discloses that "heat treatment in an atmosphere having a controlled oxygen partial pressure" ( col 7, lines 3-5 ), " an atmosphere having a controlled oxygen partial pressure", as interpreted by the examiner, reads on "a sealed atmosphere".

It is further argued that combining Kitamura and Stoll would not yield the present invention because Stoll discloses applying H<sub>2</sub>O to the LN. This argument is not found persuasive because the examiner only relies on Stoll for the teaching of pressuring the ultra-pure pressurized oxygen gas atmosphere to exceed ambient atmospheric pressure ( col 4, lines 28-33 ) that reads on the limitation of "pressurizing the sealed pure oxygen gas .....pressure" as recited in independent claims 1, 22.

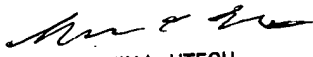
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**Conclusion**

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAN VINH whose telephone number is 703 305-6302. The examiner can normally be reached on Monday-Friday 8:30 -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, BENJAMIN L UTECH can be reached on 703 308-3836. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872-9310 for regular communications and 703 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-0661.

  
BENJAMIN L. UTECH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700

LV  
April 2, 2002